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10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12
13 RICHARD CHOWNING,

14 Plaintiff

15 v.

16 NATIONWIDE INSURANCE COMPANY
17 OF AMERICA, *et al.*,

18 Defendants
19
20

Case No.: 2:22-cv-00798-CDS-EJY

**STIPULATION AND ORDER TO
STAY THE PROCEEDINGS IN
THIS CASE**

21
22 Plaintiff Richard Chowning (“Plaintiff”) and Defendants Nationwide Insurance
23 Company of America, Allied Insurance Company of America, Nationwide Agribusiness
24 Insurance Company, Titan Insurance Company, Victoria Fire & Casualty Company, and
25 Depositors Insurance Company (collectively “Defendants”), by and through their attorneys
26 of record, submit the following stipulation and proposed order to stay the proceedings in
27 this case.
28

Relevant Background

1
2 1. This case stems from an underlying tort action that a third-party named
3 Deeanna Parks initiated against Plaintiff Richard Chowning on February 29, 2016, in the
4 District Court of Clark County entitled Deeanna Parks v. Richard Chowning, Case No. A-
5 16- 732611-C (the “Underlying Action”).

6 2. Chowning’s liability insurer appointed counsel to defend him in the
7 Underlying Action.

8 3. On April 7, 2022, a jury in the Underlying Action rendered a verdict in favor
9 of Parks and against Chowning in the sum of \$8,913,597.17.

10 4. On April 22, 2022, the court in the Underlying Action entered judgment on
11 the jury’s verdict against Chowning in the sum of \$9,887,625.33.

Commencement of This Action

12
13 5. Richard Chowning commenced the present action against Defendants on
14 April 20, 2022, in the District Court of Clark County.

15 6. Generally speaking, Chowning’s present suit alleges that Defendants are his
16 liability insurers and that they are obligated to indemnify him for the full amount of the
17 judgment in the Underlying Action on grounds that they wrongfully failed to settle Ms.
18 Parks’ claim against him within his policy’s limit of liability.

19 7. On May 19, 2022, Defendants removed the present action to this Court on
20 grounds of diversity jurisdiction.

21 8. On June 6, 2022, Defendants (with the exception of Depositors, who did not
22 appear until later) filed answers to the complaint in which they denied any obligation to
23 indemnify Chowning for the judgment in the Underlying Action. Depositors then
24 appeared in this action by filing an answer on September 7, 2022.

The Proceedings in the Underlying Action Remain Ongoing

25
26 9. Recently, on February 22, 2023, Chowning’s defense counsel in the
27 Underlying Action filed a notice of appeal. [See Doc. 91-8 (Notice of Appeal).] The
28 appeal is presently pending before the Nevada Supreme Court.

1 10. On February 24, 2023, Parks' counsel in the Underlying Action filed a
2 motion for reconsideration of the trial court's order denying her motion for attorneys' fees.
3 [See Doc. 91-11.] That motion remains pending as of the date of this stipulation.

4 **Present Status of This Case**

5 11. According to the operative scheduling order in this case, the present deadline
6 to complete discovery is June 16, 2023. [See Doc. 78.]

7 12. To date the parties have engaged in substantial written discovery and motion
8 practice, with several of motions presently pending before the Court, but we have not yet
9 completed any depositions.

10 13. The parties intend to complete several fact witness and expert witness
11 depositions prior to the conclusion of the discovery period. As of today, the parties
12 presently have the depositions of certain witnesses scheduled to take place over the next
13 month, including one deposition on April 25th, two depositions on April 27th, and one on
14 May 9th.

15 **Defendants Recently Moved the Court to Stay this Action**

16 14. On March 29, 2023, Defendants filed a motion in this Court to stay the
17 proceedings in this case pending the resolution of the appeal in the related Underlying
18 Action. [See Doc. 96.]

19 15. Defendants' motion requests a stay of the proceedings in this case on
20 grounds that: (a) the outcome of the appeal in the Underlying Action bears directly on the
21 issues in this case because it could potentially moot the claims against Defendants in this
22 case; and (b) they are concerned that any further discovery proceedings in this case,
23 including the upcoming depositions, will prejudice the ongoing defense of the Underlying
24 Action. [See Doc. 96.]

25 **The Parties Now Stipulate to Stay these Proceedings**

26 16. On April 6, 2023, Chowning's counsel and Defendants' counsel met and
27 conferred over Defendants' present motion to stay these proceedings and the depositions of
28

the various witnesses that the parties anticipate completing in this case over the next 30-45 days. Counsel agree that a stay of the proceedings in this action is warranted.

17. Thus, the parties jointly request that the Court stay the proceedings in this case until the resolution of the appeal in the Underlying Action.

Authority to Stay These Proceedings

18. “Generally, courts have an inherent power to stay proceedings before them.” Tethyan Copper Company Pty Limited v. Islamic Republic of Pakistan, 590 F.Supp.3d 262, 269 (D.D.C. 2022). “[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” Landis v. N. Am. Co., 299 U.S. 248, 254–55 (1936).

19. “A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, **pending resolution of independent proceedings which bear upon the case.**” Levy v. Certified Grocers of California, Ltd., 593 F.2d 857, 863-64 (9th Cir. 1979). “This rule applies whether the separate proceedings are judicial, administrative, or arbitral in character, and does not require that the issues in such proceedings are necessarily controlling of the action before the court.” Id. “In such cases the court may order a stay of the action pursuant to its power to control its docket and calendar and to provide for a just determination of the cases pending before it.” Id. at 864.

Requested Order

20. The parties request that the Court stay all proceedings in this case until the resolution of the appeal in the Underlying Action.

21. Upon resolution of the appeal in the Underlying Action, the parties will notify this Court in writing within 30 days and set forth their respective positions as to whether a further stay of these proceedings is necessary. If the parties agree upon resolution of the appeal in the Underlying Action that no further stay of these proceedings is necessary, the parties will jointly submit a proposed schedule for the completion of

1 discovery in this action along with a proposal for the other remaining pre-trial deadlines,
2 i.e., the filing of dispositive motions, the filing of FRCP 26(a)(3) disclosures, and the filing
3 of the Pretrial Order.

4
5 Dated this 11th day of April, 2023

Dated this 11th day of April, 2023

6 **LAW OFFICE OF DAVID**
7 **SAMPSON**

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Attorneys for Defendants

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16 **IT IS SO ORDERED.**

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18 **UNITED STATES DISTRICT JUDGE**

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20 **DATED:** April 11, 2023